



W.P.(MD)No.20810 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2022

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P.(MD)No.20810 of 2022

E.Ragupathy

... Petitioner

Vs.

1.The Superintendent of Police,
Dindigul District, Dindigul.

2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Office of the Superintendent of Police,
Dindigul District.

3.Rathinam

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to take appropriate steps based on the petitioner's representation, dated 28.06.2022.

For Petitioner :Ms.K.Vidya

For R1 and R2 :Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

Heard Ms.K.Vidya, learned Counsel for the Petitioner and Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the Respondents 1 and 2.

2.The learned Counsel for the Petitioner submits that the Petitioner is a lawful owner of the property. The vendor of the Petitioner herein had purchased the property. Previously, there was a suit in O.S.No.104 of 2004 on the file of the learned Subordinate Judge, Palani, regarding suit for specific performance. Accordingly, the suit was decreed. In pursuance of the decree in O.S.No.104 of 2004, an Execution Petition in E.P.No.141 of 2006 was filed. When the Execution Petition was pending, the third Respondent herein filed an application in E.A.No. 447 of 2007 seeking to set aside the decree in O.S.No.104 of 2004. After due enquiry, the Executing Court had dismissed E.A.No.447 of 2007. The third Respondent herein, who is the Petitioner in E.A.No.447 of 2007 filed Civil Miscellaneous Appeal in C.M.A.No.25 of 2010 before the learned Principal District and Sessions Judge, Dindigul. After hearing both parties, C.M.A.No.25 of 2010 was also dismissed on merits. Therefore, the Execution Petition had been disposed of.



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3. Based on the order passed in the Execution Petition, the vendor of the Petitioner, Ramani, is the owner of the property. Therefore, the Petitioner herein had purchased the property from the proper title holder. While so, the third Respondent, who could not succeed in the due process in the civil litigation, with an ulterior motive, had preferred a complaint with the Anti Land Grabbing Cell and also he is causing harassment to the Petitioner by preventing the Petitioner from enjoying the property, which he had purchased from the *bona fide*/true owner.

4. It is the submission of the learned Counsel for the Petitioner that the third Respondent prevents the Petitioner from entering his property by laying cart in front of the property. Not only that, the third Respondent had preferred a complaint with the Anti Land Grabbing Cell, whose officials had summoned the Petitioner and causing harassment to the Petitioner. Therefore, aggrieved by the conduct of the Respondents 1 to 3, the Petitioner had come forward by filing this Writ Petition seeking a Mandamus against the Respondents 1 and 2.

5. The learned Additional Public Prosecutor would submit that the Respondents 1 and 2 had received a complaint. On the complaint, they had conducted a preliminary enquiry. In the preliminary enquiry, the Petitioner appeared and he had submitted the documents regarding



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the civil litigation. Therefore, the enquiry was closed with the direction that the complainant has to seek his remedy through Civil Court.

6. Recording the submissions of the learned Additional Public Prosecutor, the Writ Petition is closed with the direction to the Respondents not to cause harassment to the Petitioner. The Respondents 1 and 2 are directed to warn the third Respondent not to interfere with the Petitioner's peaceful enjoyment of the property in the light of the decree in favour of the vendor of the Petitioner. The Petitioner is directed to approach the Criminal Court for the offences committed by the third Respondent or to the Civil Court seeking protection of the decree under the provision of Order 21 of Code of Civil Procedure. The Writ Court cannot exercise such discretion. No costs.

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Index : Yes / No

cmr

To

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